



Terry Tamminen  
Secretary for  
Environmental  
Protection

# California Integrated Waste Management Board

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Arnold Schwarzenegger  
Governor

## NOTICE OF PROPOSED RULEMAKING

**TITLE 14. NATURAL RESOURCES**  
**DIVISION 7. CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**  
**CHAPTER 6. PERMITTING OF WASTE TIRE FACILITIES**  
**ARTICLE 8.5. WASTE TIRE HAULER REGISTRATION**

### PROPOSED REGULATORY ACTION

The California Integrated Waste Management Board (Board) proposes to amend Title 14, California Code of Regulations, Division 7, Chapter 6, by amending Articles 8.5, sections 18460.1 through 18465 and adding section 18464. The proposed regulations make changes in the existing regulations to implement, interpret and make specific the provisions of SB 876 (Escutia, 2000), as well as correct errors, and add clarifying language to make the regulations more functional, and delete unnecessary language.

### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period for this rulemaking closes at the close of the hearing on March 19, 2004.** The Board will only consider comments received at the Board's headquarters by that time. Please submit your written comments to:

Tom Micka, Special Waste Division  
California Integrated Waste Management Board  
P.O. Box 4025  
Sacramento, California 95812-4025  
Fax: (916) 319-7491  
e-mail: [tmicka@ciwmb.ca.gov](mailto:tmicka@ciwmb.ca.gov)

If an individual previously commented on these regulations at a board meeting, that person should be aware that those comments were considered and often incorporated into the regulations. However, if such individuals are not satisfied with the proposed regulations, as they exist in the current proposed regulations, they must resubmit their comments so that they will be considered anew and made a part of this rulemaking record.

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California Environmental Protection Agency

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## PUBLIC HEARING

A public hearing to receive public comments has been scheduled for March 19, 2004. The hearing will be held at the

Joe Serna Jr., Cal EPA Building  
1001 I Street, 2nd Floor  
Sacramento, CA 95814

The hearing will begin at **1:30 p.m. on March 19, 2004**, and will conclude after all testimony is given. The California Integrated Waste Management Board requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheel chair accessible. If you have any questions, please contact Tom Micka at (916) 341-6425.

## INFORMATIVE DIGEST

The California Integrated Waste Management Act (Act), Public Resources Code (PRC) §40000 et. seq., gives the Board authority to provide for the protection of public health, safety and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC §40502 requires the Board to adopt rules and regulations to implement the Act. Senate Bill (SB) 744 (McCorquodale, 1993) established the Waste Tire Hauler Registration Program and required the Board to adopt regulations for the Waste Tire Hauler Registration and Manifesting Programs. On May 9, 1996, the Board's Waste Tire Hauler Regulations became effective. With the passage of these and subsequent regulations the Board has been regulating the hauling of used and waste tires. The Waste Tire Hauler Program currently registers more than 870 waste tire haulers annually, with more than 6,900 vehicles statewide, and requires that used or waste tires be manifested from the generator to the end-use or disposal facility.

Senate Bill (SB) 876 (Escutia, Statutes of 2000, Chapter 838) expanded the Board's authority to oversee the management of used and waste tires and to better serve the regulated community and to protect public health and safety and the environment. The Board was also charged with implementing a new and improved "California Uniform Waste and Used Tire Manifest System." The proposed regulations allow the Board to establish the amount of administrative penalties imposed against waste and used tire haulers (tire haulers) who have violated applicable laws. This will allow the Board to more effectively use administrative penalties as an enforcement tool against tire haulers, and will make the Board's regulations consistent with statutory changes (PRC section 42962). In addition, the proposed amendments to the manifest requirements allows for up to 20 waste or used tires to be hauled to an Amnesty Day Event or for a Local Enforcement Authority (LEA) authorized one-time exemption without completing a manifest. Further, staff has reviewed, interpreted, and updated inaccuracies in the existing regulations found in Title 14, California Code of Regulations, Chapter 6, Article 8.5.

Previously, the CIWMB had set the maximum administrative penalty for tire haulers at \$1,000 pursuant to statute, and had set criteria to use in determining, on a case-by-case basis, the amount of penalty for a given violation. Senate Bill 876 amended Public Resources Code (PRC) section 42962(c), effective in January 2001, to increase the administrative penalty that could be imposed upon a tire hauler to five thousand dollars (\$5,000) per violation of a "separate provision" or \$5,000 per day for a continuing violation. This statute requires the Board to adopt regulations specifying the amounts for the imposition of administrative civil penalties. These amounts were adopted as emergency regulations so that enforcement actions that are necessary for the protection of the public health and safety and the environment would not be delayed.

The Legislature found (SB 876, Section 1) that there was a need for increased enforcement to prevent illegal waste and used tire hauling to help prevent illegal tire stockpiles, like those which caused the Westley and Royster tire fires. Existing regulations do not specify the amounts for the imposition of penalties as required by this bill. The proposed regulations comply with the statutory requirements to “specify the amounts for the imposition of administrative civil penalties“ which will allow the CIWMB to move forward with appropriate enforcement activities.

The CIWMB decided to impose administrative penalties through penalty schedules because it provides a framework to the trier of fact hearing penalty cases. These penalty schedules take into account whether the tire hauler’s actions are a first or subsequent offense, the type of violation, the number of violations, and the number of waste or used tires involved. This schedule of administrative penalties provides the regulated community and the trier of fact hearing the case with a consistent, predictable method of enforcement. It will also allow for more efficient and timely prosecution of violations.

### **POLICY STATEMENT OVERVIEW**

Over the past seven years the California Integrated Waste Management Board has been regulating the hauling of used and waste tires in California. The Waste Tire Hauler Program currently registers more than 870 waste tire haulers annually, with more than 6,900 vehicles statewide, and requires that every used or waste tire be manifested from the generator to the end-use or disposal facility. Existing waste tire hauler regulations set forth procedures for the waste tire haulers registration process and current manifest requirements.

The proposed regulations establish the amount of administrative penalties imposed against waste and used tire haulers who have violated applicable laws. The regulations make changes in the existing regulations to implement, interpret and make specific the provisions of SB 876 (Escutia, 2000), as well as correct errors, add clarifying language to make the regulations more functional, and delete unnecessary language.

### **PLAIN ENGLISH REQUIREMENTS**

Board staff prepared the proposed final regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed final regulations are considered non-technical and are written to be easily understood by those parties that will use them.

### **AUTHORITY AND REFERENCES**

PRC §§ 40502, 42966, and 43020 provide authority for these regulations. The purpose of the proposed actions is to implement, interpret, and make specific numerous statutes and regulations related to the transportation of used and waste tires. The following is a list of references cited in these proposed regulation changes: PRC §§, 42951, 42954, 42956, 42961.5, and 42962.

### **FEDERAL LAW OR REGULATIONS MANDATE**

Federal law or regulations do not contain comparable requirements.

## **LOCAL MANDATE AND FISCAL DETERMINATIONS**

Board staff has determined that the proposed regulations do not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code §§17500 through 17630; 4) other non-discretionary costs or savings on local agencies; or 5) costs or savings in federal funding to the state.

## **EFFECT ON HOUSING COSTS**

CIWMB staff made an initial determination that the proposed regulations will not have a significant effect on housing costs.

## **EFFECT ON BUSINESS AND SMALL BUSINESSES/ SMALL BUSINESS DETERMINATION**

Board staff made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulations may apply to business and small businesses, but as stated above, they will not have a significant adverse economic impact on business and small businesses. For Amnesty Day Events or one-time exemptions authorized by a local enforcement authority 20 or more tires would trigger the manifest requirement instead of 10 tires. And those involved in Amnesty Day Events or one-time exemptions will be able to carry up to 19 tires without having to complete a manifest instead of the current limit of less than 10 waste tires.

The proposed regulations comply with the statutory requirements to “specify the amounts for the imposition of administrative civil penalties“ which will allow the CIWMB to move forward with appropriate enforcement activities. There is no cost associated for businesses and small businesses with regard to the penalties. The penalties only impact those individuals or businesses that are not complying with the applicable statute and regulations.

## **EFFECT ON COMPETITION WITH OUT-OF-STATE BUSINESS**

Board staff has determined that the proposed regulations will not have an adverse economic impact upon the ability of California businesses to compete with out-of-state business.

## **EFFECT ON CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA**

Board staff has determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the state of California; 2) the creation of new businesses or the elimination of existing businesses within California; or 3) the expansion of businesses currently doing business with the state.

## **COST IMPACT ON PRIVATE PERSONS OR ENTERPRISES**

Board staff has determined that the adoption of the proposed regulations will not have a cost impact on private persons or enterprises. Cost impacts for the program in general have already been identified in a previous rulemaking. There is no cost associated for haulers that are exempt from being registered and

are now being allowed to carry up to 20 waste tires for a Local Enforcement Agency approved Amnesty Day Event or a One Time Exemption.

The penalty schedule for administrative complaints does not represent a new Board activity. This schedule will, therefore, not increase the universe of individuals and businesses presently regulated. Waste and used tire haulers who violate the waste tire statute and regulations will continue to be prosecuted. The addition of this penalty schedule to the regulations should not have a significant adverse economic impact on individuals and businesses that comply with the statute and regulations governing waste and used tire hauling.

### **CONSIDERATION OF ALTERNATIVES**

The Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### **CONTACT PERSON**

Inquiries concerning the substance of the proposed action may be directed to:

Tom Micka, Special Waste Division  
California Integrated Waste Management Board  
P.O. Box 4025  
Sacramento, California 95812-4025  
(916) 341-6425 phone, (916) 319-7491 facsimile  
e-mail: [tmicka@ciwmb.ca.gov](mailto:tmicka@ciwmb.ca.gov)

Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Georgianne Turner., Special Waste Division  
California Integrated Waste Management Board  
P.O. Box 4025  
Sacramento, CA 95812-4025  
(916) 341-6429 phone, (916) 319-7165 facsimile  
e-mail: [gturner@ciwmb.ca.gov](mailto:gturner@ciwmb.ca.gov)

### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board will have the entire rulemaking file, and all information that provides the basis for the proposed regulations, available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. The Final Statement of Reasons will also be made available once it is prepared. Copies may be obtained by contacting Tom Micka at the address or phone number listed above. For more timely access to the

proposed text of the regulations, and in the interest of waste prevention, interested parties are encouraged to access the Board's Internet homepage at [www.ciwmb.ca.gov/rulemaking](http://www.ciwmb.ca.gov/rulemaking)

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

The Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text -- with changes clearly indicated -- available to the public for at least 15 days before the Board adopts the regulations as revised. Requests for the modified text should be made to the contact person named. The Board will mail any modified text to all persons who testify at the public hearing; all persons who submit written comments at the public hearing; all persons whose comments are received during the comment period; and all persons who request notification of the availability of such changes. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.